

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID DANIEL VEGA,

Defendant and Appellant.

G056858

(Super. Ct. No. 08CF10181)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,
Patrick Donahue, Judge. Affirmed.

Rachel Varnell, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

*

*

*

David Daniel Vega appeals from an order denying his petition for resentencing relief under the ameliorative provisions of Proposition 36, which could conceivably reduce his Three Strikes sentence of 25 years to life to a lesser determinate term. The trial court denied the petition after finding that Vega posed an unreasonable risk of danger to public safety. Vega appealed, and his appointed counsel filed a brief under the procedures outlined in *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738. Because our review of the record discloses no arguable issues, we affirm the order.

I

FACTS AND PROCEDURAL HISTORY

This is our second opinion in this case. In our first opinion, we affirmed Vega’s convictions for recklessly fleeing a police officer, being a felon in possession of a firearm, and unlawful taking of a vehicle. We also affirmed Vega’s Three Strikes sentence, but concluded that he likely had good cause to file a late petition for recall of his sentence under Proposition 36. (See *People v. Vega* (Oct. 5, 2016, G046736) [nonpub. opn.].)

Subsequently, the trial court held a hearing on Vega’s Proposition 36 petition. The court concluded that Vega was eligible for relief under Proposition 36, but denied such relief because Vega posed an unreasonable risk of danger to public safety. (See *People v. Superior Court (Kaulick)* (2013) 215 Cal.App.4th 1279, 1301 [“Under Penal Code section 1170.126, subdivision (f), once a court determines that a petitioning prisoner is eligible for resentencing under the Act, the petitioner ‘shall be resentenced’ to a second strike sentence ‘unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.’”].) After Vega appealed, his appointed counsel filed a brief raising no issue, but asking this court to independently review the record on appeal. Vega has not availed himself of the

opportunity to file a supplemental brief (*People v. Kelly* (2006) 40 Cal.4th 106), nor has he requested to have appellate counsel relieved.

II

DISCUSSION

Following *Wende* guidelines, we have reviewed counsel's brief and the appellate record. We have examined the record, including the sealed and unsealed transcripts of the Proposition 36 hearing. We find no arguable issue and accordingly, affirm the trial court's order denying relief under Proposition 36. (*Wende, supra*, 25 Cal.3d at p. 443.)

III

DISPOSITION

The postjudgment order is affirmed.

ARONSON, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

MOORE, J.